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10/736,473	12/15/2003	Joseph John Fatula JR.	SJO920030066US1	3484

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EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/736,473	FATULA, JOSEPH JOHN	
	Examiner	Art Unit	
	LIN LIU	2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04/20/2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-14,16 and 18-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-2, 4-14, 16, 18-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is responsive to communications filed on 04/20/2009

Claims 1-2, 4-14, 16, 18-40 are pending and have been examined.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/20/2009 has been entered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2, 4-10, 26, 28-33 and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by **Pearson (PGPUB: US 2004/0199633 A1).**

With respect to **claim 1,** Pearson teaches a global on-demand management apparatus for user control of a system resource on a grid computing system, the apparatus comprising:

a storage device storing executable code (Pearson: fig. 1-2, page 2, paragraphs 17-18);

a processor executing the executable code (Pearson: fig. 1-2, page 2, paragraphs 17-18), the executable code comprising

a global user input module-allowing a user to input a parameter control request, the parameter control request increasing an allocation of a performance resource and corresponding to a performance parameter for the performance resource stored in a profile in a memory device of the grid computing system (Pearson: fig. 1, page 3, paragraphs 24-25, page 4, paragraph 28 and page 6, paragraph 39, noted that the user input questions prompts the operator of the user node to input operating parameters. User is also allowed to modify the processing capacity level);

a global parameter module dynamically updating the performance parameter according to the parameter control request during a concurrent grid system operation (Pearson: page 4, paragraphs 28 and 31, noted that the level of processing capacity adjustable); and

a global reservation module reserving the performance resource with the updated performance parameter increasing the allocation of the performance resource for the grid computing operation (Pearson: page 4, paragraph 28, page 6, paragraph 39, and page 7, paragraph 45, noted that the level of unused

processing capacity is determined and make available to process the distributed computing.)

With respect to **claim 2,** Pearson teaches the apparatus of claim 1, wherein the performance parameter is a network performance parameter, wherein the network performance parameter is one of network accessibility, network bandwidth allocation, and grid allocation hierarchy (Pearson: page 4, paragraph 28, page 6, paragraph 39, and page 7, paragraph 45).

With respect to **claim 4,** Pearson teaches the apparatus of claim 1, wherein the performance parameter is a client performance parameter, the global reservation module further determining if the performance resource is in use and discontinuing use of the performance resource if the performance resource is in use before reserving the performance resource with the updated performance parameter for the grid computing system (Pearson: page 7, paragraphs 45-46).

With respect to **claim 5,** Pearson teaches the apparatus of claim 4, wherein the client performance parameter comprises client accessibility, client bandwidth allocation, processor allocation, storage allocation, memory allocation, backup recoverability, and backup proximity (Pearson: fig. 1, page 3, paragraphs 24-25, page 4, paragraph 28 and page 6, paragraph 39).

With respect to **claim 6,** Pearson teaches the apparatus of claim 1, the global reservation module further terminating the reservation of the performance resource in response to a client reclamation operation, the client reclamation operation reclaiming the performance resource and making the performance

resource unavailable to the grid computing system (Pearson: page 3, paragraph 23, page 4, paragraph 27 and page 6, paragraph 39).

With respect to **claim 7**, Pearson teaches the apparatus of claim 6, the global reservation module further reserving another performance resource for the grid computing operation, wherein the other performance resource is the same type of performance resource as the reclaimed performance resource (Pearson: fig. 1, page 3, paragraph 22 and page 4, paragraph 29).

With respect to **claim 8,** Pearson teaches the apparatus of claim 1, the executable code further comprising a global profile management module storing a network profile, the network profile comprising a network performance parameter of a network performance resource available to the grid computing system (Pearson: page 4, paragraph 28, page 6, paragraph 39, and page 7, paragraph 45, noted that client is part of the network to the distributed computing.)

With respect to **claim 9,** Pearson teaches the apparatus of claim 1, the executable code further comprising a global profile management module storing a global client profile, the global client profile descriptive of a global client performance resource parameter (Pearson: page 4, paragraph 28, page 6, paragraph 39, and page 7, paragraph 45).

With respect to **claim 10,** Pearson teaches the apparatus of claim 1, the executable code further comprising a global profile management module storing a plurality of client profiles, each of the plurality of client profiles comprising a

client performance parameter of a client performance resource available to the grid computing system (Pearson: page 3, paragraphs 20-23).

In regard to **claim 26** the limitations of this claim are substantially the same as those in claim 1. Therefore the same rationale for rejecting claim 1 is used to reject claim 26. By this rationale **claim 26** is rejected.

In regard to **claims 28-33** the limitations of these claims are substantially the same as those in claims 5-10. Therefore the same rationale for rejecting claims 5-10 is used to reject claims 28-33. By this rationale **claims 28-33** are rejected.

In regard to **claim 37** the limitations of this claim are substantially the same as those in claim 1. Therefore the same rationale for rejecting claim 1 is used to reject claim 37. By this rationale **claim 37** is rejected.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 11-14, 16, 18-25, 27, 34-36 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Pearson (PGPUB: US 2004/0199633 A1)** in view of **Armentrout et al. (Patent no.: US 6,463,457 B1).**

With respect to **claim 11**, Pearson teaches a global on-demand apparatus storing a plurality of client profiles (Pearson; page 3, paragraphs 23 & 25, note that the operating parameters can also be stored in the distributed system 100).

However, Pearson does not explicitly teach a method of synchronizing a client profile with one of a plurality of client profiles stored on a global on-demand apparatus during the grid system operation.

In the same field of endeavor, Armentrout teaches a method of synchronizing a client profile with one of a plurality of client profiles stored on a global on-demand apparatus during the grid system operation (Armentrout: col. 13, lines 4-27 and col. 17, lines 4-19, noted that the operating parameters specified by the clients are transferred and synchronized with the server).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the method of synchronizing a client profile with one of a plurality of client profiles stored on a global on-demand apparatus during the grid system operation as taught by Armentrout in Pearson's invention in order to update the operating parameters for the server to find the

better qualified clients to solve participate in the distributed computing (Armentrout: col. 17, lines 4-9).

With respect to **claims 12 & 13,** Pearson teaches all of the claimed limitations except that he does not explicitly teach a method storing a plurality of profile histories, each of the plurality of profile histories comprising a history of a performance parameter resource, and communicating one of the plurality of profile histories to a subscription manager, the subscription manager configured to calculate a client subscription fee based at least in part on the one of the plurality of profile histories

In the same field of endeavor, Armentrout teaches a method storing a plurality of profile histories, each of the plurality of profile histories comprising a history of a performance parameter resource and communicating one of the plurality of profile histories to a subscription manager, the subscription manager configured to calculate a client subscription fee based at least in part on the one of the plurality of profile histories (Armentrout: col. 11, lines 42-57 and col. 18 line 62 to col. 19 line 6).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the method of storing a plurality of profile histories and communicating one of the plurality of profile histories to a subscription manager, the subscription manager configured to calculate a client subscription fee based at least in part on the one of the plurality of profile histories as taught by Armentrout in Pearson's invention in order to collect usage and performance histories from the client computer concerning a wide variety of

parameters and properly bill the client (Armentrout: col. 11, lines 42-57 and col. 13, lines 35-53).

With respect to **claim 14,** Pearson teaches the local on-demand management apparatus for user control of a system resource on a grid computing system, the apparatus comprising:

a storage device storing executable code (Pearson: fig. 1-2, page 2, paragraphs 17-18);

a processor executing the executable code (Pearson: fig. 1-2, page 2, paragraphs 17-18), the executable code comprising

a client user input module allowing a user to input a client parameter control request, the client parameter control request increasing an allocation of a client performance resource corresponding to a client performance parameter for the client performance resource of the grid computing system (Pearson: fig. 1, page 3, paragraphs 24-25, page 4, paragraph 28 and page 6, paragraph 39, noted that the user input questions prompts the operator of the user node to input operating parameters. User is also allowed to modify the processing capacity level);

a client parameter module dynamically updating the client performance parameter according to the client parameter control request during a concurrent grid system operation (Pearson: page 4, paragraphs 28 and 31, noted that the level of processing capacity adjustable);

a client allocation module allocating the client performance resource to the grid computing system with the increased allocation during the a concurrent grid

system operation in response to the parameter control request (Pearson: page 4, paragraph 28, page 6, paragraph 39, and page 7, paragraph 45, noted that the level of unused processing capacity is determined and make available to process the distributed computing.);

a client profile management module storing a client profile in a memory device, the client profile comprising the client performance parameter (Pearson; page 3, paragraphs 23 & 25, note that the operating parameters are stored in local memory to user node); and

a global on-demand apparatus storing a plurality of client profiles (Pearson; page 3, paragraphs 23 & 25, note that the operating parameters can also be stored in the distributed system 100).

However, Pearson does not explicitly teach a method of synchronizing a client profile with one of a plurality of client profiles stored on a global on-demand apparatus during the grid system operation.

In the same field of endeavor, Armentrout teaches a method of synchronizing a client profile with one of a plurality of client profiles stored on a global on-demand apparatus during the grid system operation (Armentrout: col. 13, lines 4-27 and col. 17, lines 4-19, noted that the operating parameters specified by the clients are transferred and synchronized with the server).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the method of synchronizing a client profile with one of a plurality of client profiles stored on a global on-demand apparatus during the grid system operation as taught by Armentrout in Pearson's

invention in order to update the operating parameters for the server to find the better qualified clients to solve participate in the distributed computing (Armentrout: col. 17, lines 4-9).

With respect to **claim 16,** Pearson teaches the apparatus of claim 14, the executable code further comprising a client reclamation module reclaiming the client performance resource and making the client performance resource unavailable to the grid computing system in response to a client reclamation operation and wherein the client user input module receives the client parameter control request from the global on-demand apparatus (Pearson: page 3, paragraph 23, page 4, paragraph 27 and page 6, paragraph 39).

With respect to **claim 18,** Pearson teaches the apparatus of claim 14, wherein the client performance parameter is one of client accessibility, client bandwidth allocation, processor allocation, storage allocation, memory allocation, backup recoverability, and backup proximity (Pearson: fig. 1, page 3, paragraphs 24-25, page 4, paragraph 28 and page 6, paragraph 39).

In regard to **claim 19** the limitations of this claim are substantially the same as those in claim 14. Therefore the same rationale for rejecting claim 14 is used to reject claim 19. By this rationale **claim 19** is rejected.

In regard to **claims 20-21** the limitations of these claims are substantially the same as those in claims 12-13. Therefore the same rationale for rejecting claims 12-13 is used to reject claims 20-21. By this rationale **claims 20-21** are rejected.

In regard to **claim 22** the limitations of this claim are substantially the same as those in claim 14. Therefore the same rationale for rejecting claim 14 is used to reject claim 22. By this rationale **claim 22** is rejected.

With respect to **claim 23,** Pearson teaches the method of claim 22, further comprising storing a profile, the profile comprising the performance parameter of the network performance resource available to the grid computing system, wherein the profile is one of a network profile, a global client profile, and a client profile (Pearson: page 4, paragraph 28, page 6, paragraph 39, and page 7, paragraph 45).

With respect to **claim 24,** Pearson teaches the method of claim 22, wherein the method further comprises terminating the reservation of the performance resource in response to a client reclamation operation, the client reclamation operation reclaiming the performance resource and making the performance resource unavailable to the grid computing system (Pearson: page 3, paragraph 23, page 4, paragraph 27 and page 6, paragraph 39).

In regard to **claim 25** the limitations of this claim are substantially the same as those in claim 14. Therefore the same rationale for rejecting claim 14 is used to reject claim 25. By this rationale **claim 25** is rejected.

With respect to **claim 27,** Pearson teaches the memory device of claim 26, wherein the performance parameter is one of network accessibility, network bandwidth allocation, and grid allocation hierarchy (Pearson: page 4, paragraph 28, page 6, paragraph 39, and page 7, paragraph 45), and the method further comprising:

storing, a network profile, the network profile comprising a network performance parameter of a network performance resource available to the grid computing (Pearson: page 4, paragraph 28, page 6, paragraph 39, and page 7, paragraph 45, noted that client is part of the network to the distributed computing.);

storing a global client profile in a memory device, the global client profile descriptive of a global client performance resource parameter (Pearson: page 4, paragraph 28, page 6, paragraph 39, and page 7, paragraph 45);

storing a plurality of client profiles, each of the plurality of client profiles comprising a client performance parameter of a client performance resource available to the grid computing system (Pearson: page 3, paragraphs 20-23); and

a global on-demand apparatus storing a plurality of client profiles (Pearson; page 3, paragraphs 23 & 25, note that the operating parameters can also be stored in the distributed system 100).

However, Pearson does not explicitly teach a method of synchronizing a client profile with one of a plurality of client profiles stored on a global on-demand apparatus during the grid system operation.

In the same field of endeavor, Armentrout teaches a method of synchronizing a client profile with one of a plurality of client profiles stored on a global on-demand apparatus during the grid system operation (Armentrout: col. 13, lines 4-27 and col. 17, lines 4-19, noted that the operating parameters specified by the clients are transferred and synchronized with the server). Same motivation used in claim 14 applies equally as well to claim 27.

In regard to **claim 34** the limitations of this claim are substantially the same as those in claim 27. Therefore the same rationale for rejecting claim 27 is used to reject claim 34. By this rationale **claim 34** is rejected.

In regard to **claims 35-36** the limitations of these claims are substantially the same as those in claims 12-13. Therefore the same rationale for rejecting claims 12-13 is used to reject claims 35-36. By this rationale **claims 35-36** are rejected.

In regard to **claims 38-40** the limitations of these claims are substantially the same as those in claim 14. Therefore the same rationale for rejecting claim 14 is used to reject claims 38-40. By this rationale **claims 38-40** are rejected.

Response to Arguments

8. Applicant's arguments with respect to claims 1-2, 4-14, 16 and 18-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Naik et al. (PGPUB: US 2006/0294238 A1) discloses policy-based hierarchical management of shared resources in a grid environment.
- Xu (Patent no.: US 6,418,462 B1) discloses global sideband service distributed computing method.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIN LIU whose telephone number is (571)270-1447. The examiner can normally be reached on Monday - Friday, 7:30am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Srivastava Vivek can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lin Liu/
Examiner, Art Unit 2445

/VIVEK SRIVASTAVA/

Supervisory Patent Examiner, Art Unit 2445